
State Water Resources Control Board

October 8, 2021

Ms. Elisabeth Rossi
Supervisor, Hydro Licensing
Mail Code N11D
P.O. Box 770000
San Francisco, CA 94177
Sent via email: Elisabeth.Rossi@pge.com

**Pit 3, 4, and 5 Hydroelectric Project
Federal Energy Regulatory Commission Project No. 233
Shasta County
Pit River**

AMENDMENT TO PIT 3, 4, AND 5 HYDROELECTRIC PROJECT WATER QUALITY CERTIFICATION, TEMPORARY MODIFICATIONS TO FLOW REQUIREMENTS

Dear Ms. Rossi:

On October 8, 2020, the Pacific Gas and Electric Company (PG&E) requested an amendment to Condition 12 of the water quality certification (certification) for the Pit 3, 4, and 5 Hydroelectric Project (Project). PG&E is requesting an amendment to allow for temporary modification of flow requirements during construction, non-routine maintenance, facility inspections, and valve testing upon approval by the Deputy Director of the Division of Water Rights (Deputy Director).

The State Water Resources Control Board (State Water Board) provided public notice of the amendment request on October 26, 2020 and received no comments. Information regarding the request is on the [Water Quality Certification Program Public Notices webpage](#).¹

BACKGROUND

The State Water Board issued the Project certification on August 10, 2006.² On July 2, 2007, the Federal Energy Regulatory Commission (FERC) issued a new license for the Project, which includes the Project certification conditions. Condition 12 allows

¹ The public notices [webpage](#) is available online at:
https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/wqcertnotices.html

² The Project certification was amended via Order WQ 2007-0001 on January 18, 2007.

for temporary modification of flow requirements during equipment malfunction, emergency conditions, law enforcement activity, or critical electric system emergency beyond PG&E's control. Condition 12 further requires PG&E to notify the Deputy Director before any temporary modifications, if possible, or no more than 48 hours after any temporary modifications.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Issuance of a certification amendment is a discretionary action that requires the State Water Board to comply with the California Environmental Quality Act (CEQA). For this certification amendment, and for the purpose of CEQA compliance, the State Water Board is the lead agency. On December 21, 2005, the State Water Board issued a Notice of Intent to Rely on Federal Environmental Impact Statement (EIS) to satisfy the requirements of CEQA. The State Water Board used the FERC EIS rather than prepare an environmental impact report for the purposes of CEQA. The State Water Board circulated a document that added any points of analysis not covered in the EIS, but required under CEQA and circulated that in accordance with the standards set forth in section 15087, subdivision (a) of the California Code of Regulations, title 14. (Cal. Code Regs., tit. 14, §15225.) Parties had 45 days to submit CEQA comments and the State Water Board responded to comments in writing on March 7, 2006. The State Water Board reviewed and considered this information. Combined with FERC's Final EIS, the CEQA Findings, and Mitigation Monitoring and Reporting Plan adopted at the same time of original certification issuance comply with CEQA.

PG&E is not requesting any flow modifications as part of this certification amendment and FERC's EIS includes analysis of the environmental impacts of reasonably foreseeable construction and maintenance projects that could be authorized pursuant to this certification amendment. Potential future flow modifications that have not been analyzed are speculative, and the State Water Board will conduct additional CEQA analysis, as appropriate, for each future flow modification PG&E requests.

The State Water Board will file a Notice of Determination with the Office of Planning and Research within five days of issuance of this certification amendment. (Cal. Code Regs., title 14, § 15094.)

CONDITIONAL APPROVAL

The State Water Board finds the proposed amendment to be protective of state water quality standards and other appropriate requirements of state law.

The State Water Board hereby amends Condition 12 of the Project certification as follows (new text in bold and underline):

All flow requirements of this certification are subject to temporary modification if required by equipment malfunction, emergency conditions or law enforcement activity, or critical electric system emergency beyond the control of the Licensee. The Licensee shall provide advance notification to the State Water Board, Deputy Director, prior to any temporary modification if possible. If advance

notification is not possible because an event is unforeseeable, Licensee shall notify the Deputy Director immediately but no later than 48 hours from the time that any temporary modification has occurred.

The Licensee may request temporary variances of flow requirements for non-emergency facility construction, modification, or maintenance. Non-emergency temporary variance requests shall be submitted to the Deputy Director for review and consideration for approval at least four months in advance of the desired effective date. The Licensee shall notify the FS, California Department of Fish and Wildlife [CDFW, formerly referred to as the California Department of Fish and Game or CDFG], and FWS of the proposed temporary flow variance prior to its submittal to the Deputy Director. The temporary variance request shall include: a description of the proposed construction, modification, or maintenance; the planned duration and magnitude of the flow variance, including any proposed modifications to the ramping rate requirements; documentation of notification to FS, CDFW, and FWS, and any comments received; measures that will be implemented to protect water quality and beneficial uses; and a schedule for the proposed construction, modification, or maintenance. The Deputy Director may deny the request or require modifications as part of approval. Upon Deputy Director approval, the Licensee shall provide notice of the flow variance to the Project Technical Review Group* and other interested parties. The Licensee shall file with FERC the Deputy Director-approved modifications to flow requirements and required modifications thereto.

*** The Technical Review Group is defined in FS's Section 4(e) Condition No. 23 and includes State Water Board staff, CDFW, FWS, National Parks Service, American Whitewater, California Sportfishing Protection Alliance, and PG&E.**

Approval of this Project certification amendment is granted with the following conditions:

1. This certification amendment is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).
2. This certification amendment is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. This certification amendment is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28 and owed by the applicant.

All documents and other information that constitute the public record for this amendment will be maintained by the Division of Water Rights and are available for public review at the following address:

State Water Resources Control Board
Division of Water Rights
1001 I Street, Sacramento, CA 95814

Documents are available at this location by appointment only. Please email dwr@waterboards.ca.gov to discuss options for reviewing documents.

If you have questions regarding this document please contact Savannah Downey, Project Manager, by email at Savannah.Downey@waterboards.ca.gov. Written correspondence should be directed to:

State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
Attn: Savannah Downey
P.O. Box 2000
Sacramento, CA 95812-2000

Sincerely,



Eileen Sobeck
Executive Director

cc: Interested Parties List

ec: Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Via eFiling

Mr. Patrick Pulupa, Executive Officer
Central Valley Regional Water Quality Control Board
Email: Patrick.Pulupa@waterboards.ca.gov

United States Environmental Protection Agency
Region 9 Water Division
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Ms. Megan Young, PG&E
Email: Megan.Young@pge.com

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Ann Marie Ore, Water Rights
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Savannah Downey, Water Rights
Andrea Sellers, Water Rights
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